

From: Rick Berg
To: Microsoft ATR
Date: 1/23/02 10:12pm
Subject: Microsoft Settlement

I am writing you to encourage that you re-evaluate the proposed Microsoft settlement terms.

I am not really anti-Microsoft. I work with their products every day and feel that many of their products offer a good value, are smartly designed, and frequently do more than I ask of them. It would be easy for me to say that if it weren't for Microsoft, my job would be much harder.

An operating system to a computer is like paper is to a book. Without paper, it would be difficult to publish a book. The paper really has little to do with the content of the book or, what the book is used for but it is a necessary and integral part of the book. Paper manufacturers are free to make paper however they wish. Some use cotton, others use rags, most use wood. But they all need to make the paper so that it can be handled by the machines that make the book and they need to concern themselves with how the paper works with the ink, the presses, and the shears that cut the paper.

Their recipe for how they make the paper may be a secret but, they meet the specifications demanded by the industry that uses their product and they publish the specifications of their paper. This is where my analogy fails and where Microsoft has failed the industry. Their failure has stifled creativity and given them unfair advantages over other companies. They have played the game but held the choicest cards back for themselves. This has helped them gain market share against competitive products (Like Netscape Navigator, Lotus SmartSuite and countless others). Their dominance in the market has allowed them to bully not only their competitors but their business partners as well. A computer manufacturer would have a hard time selling a computer without being able to offer Microsoft Windows and everyone knows it. Microsoft's reach is long, they supply the tools to developers and administrators as well.

Recently, Microsoft filed suit against a small start up company that is using the name "Lindows." For some reason, Microsoft feels that name is too close to their trademark "Windows." Their claim is that the term is confusingly similar. I am not a lawyer, I may be wrong, but I see a clear difference and can not see how someone would confuse the two names. What I see is a company that has clearly not learned it's lesson. They are still playing the bully and will use their considerable clout and fortune to hurt a company that they see as a threat in a manner that I find morally and ethically repugnant. How can we not expect them to interpret the settlement in a similar fashion? I already expect that they will find loophole after loophole and will exploit each and every one of them. I do not expect that they will fully publish every hook that their other applications use to the operating system nor do I expect that they will provide the necessary

support documentation available that would make this information beneficial to developers (and in some cases, the public). They will continue to build their monopoly and abuse the public's trust.

Microsoft has all but destroyed one of the most innovative companys to come along in a long time. They did this by giving away their browser which was the product Netscape made popular. This shows the depth that they will sink to to destroy anyone who tries to garner a piece of their market. Any settlement that the DOJ reaches with Microsoft must without a doubt require proof from Microsoft that they are in total compliance with the agreement and that they will permit external auditors to verify this. Any agreement with Microsoft must contain provisions that will severely restrict their business practices should they be found in non-compliance. Any agreememnt with Microsft should require Microsft to internally seperate it's operating systems development from other development teams. This is the only way that Microsoft can truly prove that they will comply with the agreement.